

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: Chapter 11
CELSIUS NETWORK LLC et al.¹ Case NO. 22-10964 (MG)
Debtors (Jointly Administered)

DECLARATION OF ETHAN MCLAUGHLIN PURSUANT TO 28 U.S.C. §1746

I, Ethan McLaughlin, under penalty of perjury, make the following declaration:

1. I am an attorney admitted to practice in in the State of Vermont. I am employed as an Assistant General Counsel at the Vermont Department of Financial Regulation.
2. I make this Declaration in support of the Department's Joinder in the Motion of the United States Trustee for an Order directing the appointment of an Examiner.
3. I am one of the attorneys at the Department engaged in a multistate investigation by securities regulators into the unregistered offering of Celsius Earn Interest Accounts by the Debtors.
4. As part of the investigation, states requested and obtained certain financial and business records from certain of the Debtors, including balance sheet analyses of Celsius Network Limited (together with its direct and indirect subsidiaries, "Celsius") dated May 13, 2022, May 25, 2022, and June 13, 2022 (the "Preliminary Balance Sheets"). Each of the Preliminary Balance Sheets is qualified as being "preliminary, unaudited and subject to revision upon completion of the Company's closing and audit processes" and does not include deferred taxes. Each of these Preliminary Balance Sheets shows liabilities substantially exceeding assets, whether including or excluding the Celsius' net long position in CEL tokens. The chart below summarizes Celsius' equity value (i.e., the sum

¹ Debtors include Celius Network LLC, Celsius KeyFi LLC, Celsius Lending LLC, Celius Mining LLC, Celsius Network Limited, Celsius Networks Lending LLC, and Celsius U.S. Holding LLC. The Debtor's principal place of business is 121 River Street, PH05, Hoboken, New Jersey 07030

of its assets minus the sum of its liabilities) as presented in the Preliminary Balance sheets:

Date	Equity Value (\$ in millions)	Pro-Forma Equity Value² (\$ in millions)
5/13/2022	-\$820	-\$1,113
5/25/2022	-\$890	-\$1,158
6/13/2022	-\$1,098	-\$1,222

Celsius appears to be insolvent on each of these dates, insofar as they have liabilities exceeding their assets. See Insolvent Definition, *Black's Law Dictionary* (11th ed. 2019), *available at* Westlaw (“having liabilities that exceed the value of assets”).

5. The states also received certain Celsius internal reports known as “Freeze Reports” for several dates between May 24, 2021 and July 6, 2022 (collectively, the “Freeze Reports”). The reports include a view of Celsius’ assets and liabilities at a coin/token level and are displayed both in-kind and in US dollars. The Freeze Reports provide a snapshot as of a particular date and do not typically include details of individual transactions. In providing the Freeze Reports to state securities regulators, counsel to Celsius noted the following limitations:

Given its complexity and number of calculations, the report has certain limitations. Specifically, the data involves 100+ coins tracked in 200+ wallets and accounts. The process to update the Freeze Report for new wallets, coins and strategies is manual and operational intensive. If not timely updated, certain positions will not be captured in the Report. The data sources that feed into the

² According to a footnote to the Preliminary Balance Sheets, Pro Forma Equity is “adjusted to eliminate Net Long CEL tokens, this pro forma non-GAAP presentation is being presented to allow participants to assess a pro forma equity position excluding CEL token accounting which under US GAAP is different.”

report also are updated every hour, and position level data refreshes throughout the day. Users of the report therefore may manually adjust the Freeze Report and provide input if there is missing data or other potential errors identified in the report. For example, up until mid-May, the reserve for EFH receivables was not included in the net asset positions. The report also has not been updated for the launch of Celsius' custody product and CelsiusX.

The Freeze process is limited in that it is not reconciled to an independent source and relies on basic variance analysis by looking at the delta compared to the prior Report. But balances were often moved between wallets where the freeze file would only show one side of the transaction which made the variance analysis exercise challenging.

Many of the Freeze Reports do not appear to include reserves that Celsius included in the Preliminary Balance Sheets, such as loan loss reserves and reserves related to receivables. These reserves reduce Celsius' Equity value by \$538 million in each of the Preliminary Balance Sheets.

6. Based on my review and preliminary analysis of the above-described Preliminary Balance Sheets and Freeze Reports, as well as the Celsius Network Limited Annual Report and Financial Statements for the Periods ended February 29, 2019, February 28, 2020 and December 31, 2020 (collectively, the "Financial Statements," and together with the Preliminary Balance Sheets and the Freeze Reports, the "Celsius Financial Records"), the Celsius Financial Records indicate the following:

- a. Celsius' Net Position in CEL³ tokens is positive in each of the Freeze Reports, meaning that the number of CEL tokens and CEL-denominated assets held by Celsius exceeded its CEL-denominated liabilities (such as CEL tokens owed to depositors and collateral owed to borrowers).

³ Net Position in CEL" refers to the total number of CEL tokens and CEL-denominated assets held by Celsius, minus CEL-denominated liabilities. As a simplified example, if the Company held 200 CEL tokens but owed 50 CEL tokens to Earn account depositors, its Net Position in CEL would be 150 CEL tokens.

- b. If Celsius' Net Position in CEL is excluded, its liabilities exceed its assets in all of the Freeze Reports and Preliminary Balance Sheets provided to state regulators.
- c. The Freeze Reports dated June 3, 2022, June 8, 2022, and June 10, 2022, each indicate that Celsius was deeply insolvent, having liabilities exceeding its assets, such that Celsius lacked sufficient assets to fully repay its obligations to depositors and other creditors.
- d. Celsius' Net Shareholder Equity (i.e., the sum of all of its assets, minus the sum of all of its liabilities) decreased by \$454,074,042 from the Freeze Report dated May 2, 2022 to the Freeze Report dated May 12, 2022. Total liabilities exceeded total assets throughout this period.
- e. The Financial Statements dated December 31, 2020 show Net Shareholder Equity of \$1,446,420,000. The Freeze Reports dated July 16, 2021 and July 23, 2021 show Net Shareholder Equity of \$650,467,362.40 and \$752,876,673.57, respectively. These changes indicate that Celsius experienced unrealized losses in excess of \$690 million in the first seven months of 2021.
- f. From May 24, 2021 to December 14, 2021, Celsius increased its Net Position in CEL by 41,955,119 CEL tokens, when the closing market price of CEL generally ranged between \$3.86 and \$8.00. The May 24, 2021 Freeze Report lists Celsius' Net Position in CEL as 292,074,111.34 tokens. The December 14, 2021 Freeze Report lists Celsius' Net Position in CEL as 334,029,230.10 tokens.
- g. From May 2, 2022 through July 1, 2022, Celsius increased its Net Position in CEL by an additional 40,089,731.33 CEL tokens, with over half of this increase occurring after Celsius froze withdrawals on June 12, 2022. The market price of CEL generally ranged between \$ 0.155 and \$2.077 during this period. The May 2, 2022 Freeze Report lists Celsius' Net Position in CEL as 343,049,163.67 tokens. The June 13, 2022 Freeze Report lists Celsius' Net Position in CEL as 361,312,576.73 tokens. And the July 1, 2022 Freeze Report lists Celsius' Net Position in CEL as 383,138,895 tokens.

7. Celsius has not provided the multistate group with Freeze Reports or similar information detailing whether Celsius purchased CEL tokens or otherwise increased its Net Position in CEL during periods prior to May 24, 2021.
8. Celsius offered users the ability to earn interest paid in CEL tokens. All users could earn interest paid in CEL on deposits of CEL tokens.⁴ And users outside the United States could earn interest on other digital assets at higher rates by electing to receive interest paid in CEL tokens. Celsius claimed to acquire the CEL tokens that it used to pay such interest by buying CEL tokens in the open market. Celsius also claimed to “burn” ten percent (10%) of the CEL tokens that it purchased for the purposes of paying interest.
9. To the extent that Celsius purchased CEL tokens and either burned or paid interest to users using an equal number of tokens, the net effect of such actions would not increase Celsius’ Net Position in CEL tokens.

Signed under penalty of perjury this 7th day of September 2022.

/s/ Ethan McLaughlin

Ethan McLaughlin

⁴ Celsius did not generally deploy CEL tokens in substantial revenue generating activities at levels comparable to other digital assets.